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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED



November 4, 1998

**Ex Parte**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, DC 20554

Re: **Docket CCB/CPD 97-30 and 96-98, Reciprocal Compensation**

Dear Ms. Salas:

Please place the attached letter to Chairman William Kennard in the record in the above referenced proceedings.

In accordance with Section 1.1206(a)(1) of the Commission's rules, an original and one copy of this notice are being submitted to the Secretary.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Tauke".

Thomas J. Tauke  
Senior Vice President  
Government Relations

A handwritten signature in cursive script, appearing to read "Edward D. Young III".

Edward D. Young, III  
Senior Vice President &  
Deputy General Counsel

Attachment

Cc:	J. Casserly	T. Power
	K. Dixon	L. Strickling
	P. Gallant	J. Schlichting
	K. Martin	J. Jackson
	P. Misener	T. Preiss
	R. Pepper	

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List A B C D E

Bell Atlantic  
1300 I Street N.W.  
Suite 400W  
Washington, DC 20005

November 4, 1998



Hon. William E. Kennard  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

**Re: Reciprocal Compensation On Internet Traffic**

Dear Chairman Kennard:

The FCC should take three steps in this week's order addressing reciprocal compensation on Internet traffic. Collectively, these steps will restore incentives to deploy competing facilities, afford equal treatment to incumbents and competing carriers when they deliver traffic to Internet service providers, and avoid preempting the ability of the states to interpret interconnection agreements.

First, the FCC should confirm that Internet calls are interstate and interexchange, regardless of whether a caller uses a switched or dedicated service to connect to the Internet. Regardless of the type of connection used, an Internet call is a single end-to-end communication from the caller to databases across the country and around the globe. While a caller also may use the Internet to connect to a database in the same state, the dynamic routing employed in the Internet makes it impossible to separate the interstate and intrastate portions of such calls. And the so-called enhanced service provider exemption merely exempted Internet service providers from paying the interstate access charges that otherwise would apply. It did not, and could not, make Internet calls local for any other purpose. As a result, switched Internet traffic properly is classified as interstate and interexchange.

Second, the FCC should expressly say that it is not addressing what effect its order has on existing agreements, or prior state orders addressing those agreements. That issue is best addressed by the individual state commissions. In fact, many of the state commissions that have addressed the reciprocal compensation issue made it clear that they may need to modify their orders prospectively based on an order from the FCC clarifying the jurisdictional nature of the traffic. The approach we propose would allow them to do so.

In contrast, some parties urge the FCC to preempt the ability of state commissions to reconsider their prior orders. It should do so, they say, either directly by requiring them to leave existing arrangements in place, or indirectly by adopting what amounts to a contract interpretation proxy model that effectively dictates to the states the factors to

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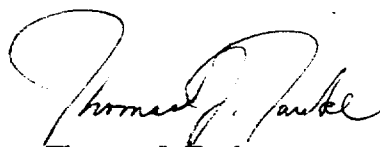
"consider" in re-examining their decisions. But preemption by any name is still preemption, and efforts such as these to foreclose a meaningful role for the states should be rejected.

Third, the FCC should not propose or adopt a new federal version of a reciprocal compensation requirement for Internet traffic. Requiring local telephone companies to pay reciprocal compensation on this traffic is the moral equivalent of requiring them to pay protection money. They are being forced to pay their competitors to not compete. In other contexts, this would run afoul of the antitrust laws. And for good reason. These protection payments destroy the very incentives to deploy competing facilities that Congress, the FCC and the states have tried to promote.

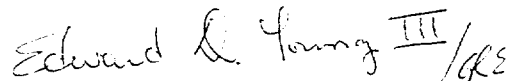
In addition, as you have emphasized, the FCC should not be in the business of picking winners and losers, and should not adopt policies that favor one set of competitors over others. By declining to impose a new form of reciprocal compensation on this traffic, the FCC will restore the competitive neutrality that is lacking today. It will do so by placing incumbents and other competitors in exactly the same position when they deliver traffic to Internet service providers. Under the terms of the enhanced service provider exemption, both can charge Internet service providers for the services they provide under their intrastate tariffs.

We would, of course, be pleased to discuss this issue with you further.

Sincerely,



Thomas J. Tauke  
Senior Vice President  
Government Relations



Edward D. Young, III  
Senior Vice President &  
Deputy General Counsel

cc: Commissioner Furchtgott-Roth  
Commissioner Ness  
Commissioner Powell  
Commissioner Tristani